

TITLE 38
FORESTRY, FOREST PRODUCTS AND STUMPAGE DISTRICTS

CHAPTER 4
FIRE HAZARD REDUCTION PROGRAMS

38-401. SUPERVISION BY DIRECTOR OF THE DEPARTMENT OF LANDS. The director of the department of lands shall have the supervision, control and management of all fire hazards created by insects, disease, other natural causes, or by any person engaged in harvesting timber, ties, logs, poles, posts, cordwood, pulpwood, or any other forest product or potential forest product upon lands within the state of Idaho for the protection of forest resources, and shall have supervision, control and management of all fire hazard reduction plans, programs and regulations of or under the forestry laws of the state of Idaho.

The supervision, control, management or reduction, or any combination thereof, of fire hazards referred to in this section and in this chapter may include or be limited to the taking of protective measures reasonably intended to prevent the injury to or the destruction of forest resources without the actual abatement of the hazard. It shall be the public policy of this state, without unnecessarily restricting the director of the department of lands, to reduce, wherever practical, fire hazards by disposal or treatment of the slash created by the harvesting of forest products, having due regard for the effective and economical overall protection of forest land and resources.

In those cases where complete disposal or treatment of the slash is not planned or where partial disposal or treatment is planned the state forest warden shall submit to the director a detailed plan of protection for each separate operation listing the proposed expenditures and the amounts collected or to be collected. The director may approve such plan if the proposed expenditures are limited to one or more of the following:

1. Acquisition of equipment needed for fire protection or reduction of fire hazards referred to in this section.
2. Construction of appropriate structures aiding in fire protection or hazard reduction.
3. Acquisition or contracting for communications or a communication system.
4. Acquisition of appropriate tools, machinery and equipment needed for fire protection or hazard reduction.
5. Payment of personnel and apportioned overhead employed by the forest protective district.
6. Road maintenance and construction in slash areas where a fire hazard exists.

The percentage of total moneys accredited to each forest protective district that may be used within the district for protective measures in lieu of actual abatement of the fire hazards shall be determined annually by the director.

[38-401, added 1945, ch. 74, sec. 1, p. 108; am. 1957, ch. 183, sec. 1, p. 357; am. 1969, ch. 89, sec. 1, p. 296; am. 1974, ch. 17, sec. 12, p. 308.]

38-402. PLANS, PROGRAMS AND RULES -- APPROVAL BY STATE BOARDS. The director of the department of lands is hereby authorized and empowered to adopt

plans, programs and rules for the management and reduction of fire hazards for the protection of forest resources, any of which hazards are created by insects, disease, other natural causes, or by any person engaged in harvesting timber, ties, logs, poles, posts, cordwood, pulpwood, or any other forest product or potential forest product upon lands within the state of Idaho.

All such plans, programs and rules for the supervision, management, control, and reduction of fire hazards for the protection of forest resources to be applied in any forest protective district before becoming effective shall be submitted to, and approved by the state board of land commissioners, and all contracts or agreements entered into by the director of the department of lands with any owner or owners, operator or operators of any forest lands covered by sections [38-401](#)--[38-410](#), Idaho Code, before becoming effective, shall be submitted to, and be approved by the state board of land commissioners.

[38-402, added 1945, ch. 74, sec. 2, p. 108; am. 1957, ch. 183, sec. 2, p. 357; am. 1969, ch. 89, sec. 2, p. 296; am. 1974, ch. 17, sec. 13, p. 308.]

38-403. DELEGATION OF POWERS TO STATE FOREST WARDEN. The director of the department of lands is hereby authorized and empowered to delegate any power granted to the director under sections [38-401](#)--[38-410](#) to the state forest warden in any forest protective district.

[38-403, added 1945, ch. 74, sec. 3, p. 108; am. 1957, ch. 183, sec. 3, p. 357; am. 1969, ch. 89, sec. 3, p. 296; am. 1974, ch. 17, sec. 14, p. 308.]

38-404. CONTRACTS WITH OWNERS OF FOREST LANDS. The director of the department of lands is hereby authorized and empowered to enter into agreements with the owners of any forest lands or any operator engaged in operations on lands within the state of Idaho whereby slash is created, and under said contract the director may assume all responsibility created under the forestry laws of the state of Idaho for the management, and reduction of any fire hazard for the protection of forest resources; any such contract shall provide the amount to be paid by the owner or operator to the director by reason of his agreement to assume this responsibility.

[38-404, added 1945, ch. 74, sec. 4, p. 108; am. 1957, ch. 183, sec. 4, p. 357; am. 1969, ch. 89, sec. 4, p. 296; am. 1974, ch. 17, sec. 15, p. 308.]

38-405. METHODS OF REDUCING HAZARDS -- CONTRACTS WITH FOREST PROTECTIVE AGENCIES. The management and reduction of such fire hazards for the protection of forest resources shall be carried on by the director of the department of lands and the state forest wardens in keeping with modern and progressive forest practices in furtherance of reforestation and more effective fire control and in accordance with the plans approved by the state board of land commissioners for the several forest protective districts, and the director or state forest wardens are hereby authorized to enter into contracts with forest protective agencies, including agencies of the United States of America, for the management and reduction of such fire hazards for the protection of forest resources when in their opinion the work can best be accomplished in that manner. The director, state forest wardens and

recognized forest protective agencies, including any agency of the United States of America, with which the director or state forest warden has entered into an agreement for the management and reduction of any fire hazard for the protection of forest resources as herein provided, and any officer or official of such agency, shall not be liable for any damage to the land, product, improvement or other things of value of whatsoever nature upon the lands on which the fire hazards are being managed or reduced in accordance with provisions of sections [38-401](#) to [38-410](#), Idaho Code, inclusive, when all requisite care and caution has been used and such work is being or has been performed in compliance with the plans, programs, rules and contracts approved as provided in section [38-402](#), Idaho Code.

[38-405, added 1945, ch. 74, sec. 5, p. 108; am. 1953, ch. 219, sec. 1, p. 334; am. 1957, ch. 183, sec. 5, p. 357; am. 1969, ch. 89, sec. 5, p. 296; am. 1974, ch. 17, sec. 16, p. 308.]

38-406. FOREST LANDS BELONGING TO STATE. The provisions of sections [38-401](#)--[38-410](#), Idaho Code, shall not apply to forest lands belonging to the state of Idaho. Provided, however, the state board of land commissioners may by order direct the director of the department of lands to apply the administration of all the provisions of this chapter to forest lands belonging to the state.

[38-406, added 1945, ch. 74, sec. 6, p. 108; am. 1969, ch. 89, sec. 6, p. 296; am. 1974, ch. 17, sec. 17, p. 308.]

38-407. FOREST MANAGEMENT ACCOUNT. The state treasurer shall be custodian of an account which is hereby created to be known as the "forest management account," into which shall be paid all funds accruing or received under any and all of the provisions of sections [38-401](#)--[38-410](#), Idaho Code.

[38-407, added 1945, ch. 74, sec. 7, p. 108; am. 1987, ch. 192, sec. 5, p. 395.]

38-408. MONEYS FROM CONTRACTS AND APPROPRIATIONS -- EXPENDITURES AND ACCOUNTS. All moneys paid to the director of the department of lands, or the state forest wardens, under any contract whereby the director assumes the management and reduction of any fire hazard for the protection of forest resources, shall be deposited with the state treasurer and shall be credited to the forest management fund as herein provided.

All moneys appropriated for, accruing to, or received by said fund are hereby appropriated for the purpose specified in sections [38-401](#)--[38-410](#), Idaho Code, and shall only be used in the protective districts where collected. All funds in, or accruing to, the erosion control account after the effective date of this section shall be credited to the forest practices rehabilitation account created in section [38-1313](#), Idaho Code.

All moneys deposited in said fund shall remain in the state treasury for the use of the director in the payment of items constituting claims against the fund. This fund may be drawn upon by sight drafts signed by the director and attached to vouchers for the planned expenditure, both in such form as the state controller shall prescribe. At such time as the board of examiners may prescribe the director shall present a complete itemized account of all expenditures from said fund. The said board is authorized to approve or reject any item in said account. If any item thereof is disallowed the direc-

tor or the state forest warden responsible therefor shall replace the amount thereof in the said fund. The amount of the items allowed shall be credited by the state controller to the director.

[38-408, added 1945, ch. 74, sec. 8, p. 108; am. 1957, ch. 183, sec. 6, p. 357; am. 1969, ch. 89, sec. 7, p. 296; am. 1973, ch. 111, sec. 1, p. 201; am. 1974, ch. 17, sec. 18, p. 308; am. 1987, ch. 192, sec. 6, p. 395; am. 1994, ch. 180, sec. 67, p. 471.]

38-409. BOND OF DIRECTOR. The director of the department of lands shall be bonded to the state of Idaho in the time, form and manner prescribed by [chapter 8, title 59](#), Idaho Code.

[38-409, added 1945, ch. 74, sec. 9, p. 108; am. 1957, ch. 183, sec. 7, p. 357; am. 1969, ch. 89, sec. 8, p. 296; am. 1971, ch. 136, sec. 23, p. 522; am. 1974, ch. 17, sec. 19, p. 308.]

38-410. CERTIFICATE OF CLEARANCE. Any owner or operator who has entered into a contract with the director of the department of state lands for the management and reduction of any fire hazard for the protection of forest resources and upon payment of the contract price in accordance with the terms of said contract and with the full compliance with the terms of said contract by such owner or operator shall be granted a certificate of clearance and be relieved of any and all further liability and responsibility for the removal or reduction of any such fire hazard.

[38-410, added 1945, ch. 74, sec. 10, p. 108; am. 1957, ch. 183, sec. 8, p. 357; am. 1969, ch. 89, sec. 9, p. 296.]

38-411. SEPARABILITY. The provisions of this chapter are hereby declared to be separable, and, if any part hereof is declared to be unconstitutional, such shall not affect the validity of the other portions of this chapter.

[I.C., sec. 38-411, as added by 1957, ch. 183, sec. 9, p. 357.]